

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**QUENTIN M. NEAL,**

Plaintiff,

v.

**Case No. 22-CV-832**

**ROBERT WEINMAN, *et al.*,**

Defendants.

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**ORDER**

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The defendants have filed motions for summary judgment. (ECF Nos. 34, 40.) Pro se plaintiff Quentin M. Neal responded to the motions. (ECF No. 49.) After the defendants replied, on December 18, 2023, Neal filed a motion (ECF No. 59) for leave to file documents ECF Nos. 61-62, which appear to support his response to the defendants' motions for summary judgment. Defendant Eric Nelson filed a motion to strike the two new documents. Given the nature of Neal's motion, the court will construe it as a motion to file a sur-reply.

Whether to grant a party leave to file a sur-reply brief is a question within the court's discretion. "The decision to permit the filing of a surreply is purely discretionary and should generally be allowed only for valid reasons, such as when the movant raises new arguments in a reply brief." *Merax-Camacho v. U.S.*, 417 F. App'x 558, 559 (7th Cir. 2011) (citing *Schmidt v. Eagle Waste & Recycling, Inc.*, 599

F.3 626, 631 n. 2 (7th Cir. 2010)). “In some instances, allowing a filing of a surreply ‘vouchsafes the aggrieved party’s right to be heard and provides the court with the information necessary to make an informed decision.’” *Univ. Healthsystem Consortium v. United Health Group, Inc.*, 68 F. Supp. 3d 917, 922 (N.D. Ill. 2014) (quoting *In re Sulfuric Acid Antitrust Litg.*, 231 F.R.D. 320, 329 (N.D. Ill. 2005)).

Neal explains that he had to file these materials late because they got lost in Waupun’s system. He also explains that, because of Waupun’s lockdown status, he has had a difficult time getting to the law library to figure out what was sent to the court and what was not. Given these circumstances, the court will grant Neal’s motion and deny Nelson’s motion.

The court has reviewed the substance of Neal’s surreply and does not find that it unduly prejudices the defendants. Neal clarifies certain points that he included in his original response. However, the court recognizes that the defendants may want to respond to the surreply. As such, if the defendants so desire, they may file a response to the surreply by January 29, 2024.

**IT IS THEREFORE ORDERED** that Neal’s motion for leave to file a surreply (ECF No. 59) is **GRANTED**. The defendants’ response to the surreply, should they wish to file one, is due **January 29, 2024**.

**IT IS FURTHER ORDERED** that Nelson’s motion to strike ECF Nos. 61-62 (ECF No. 64) is **DENIED**.

Dated in Milwaukee, Wisconsin this 16th day of January, 2024.

BY THE COURT

A handwritten signature in black ink, reading "William E. Duffin". The signature is written in a cursive style with a horizontal line underneath the text.

WILLIAM E. DUFFIN  
United States Magistrate Judge